

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GREG BALLARD,

Plaintiff,

v.

BANK OF AMERICA, N.A., et
al.,

Defendants.

CASE NO. C10-5668BHS

ORDER RENOTING AND
RESERVING RULING ON
DEFENDANTS' MOTION TO
DISMISS

This matter comes before the Court on the joint motion to dismiss under Rule 12(b)(6) (failure to state a claim) filed by Defendants Bank of America, N.A. ("BofA") and ReconTrust Company, N.A. ("Recon") (Dkt. 24). The Court has considered the pleadings filed in support of the motion and the remainder of the file and hereby puts Ballard on notice of his obligations to avoid dismissal and reserves ruling on Defendants' joint motion to dismiss for the reasons stated herein.

I. DISCUSSION

On August 16, 2010, Ballard filed his complaint against multiple Defendants in Pierce County Superior Court (Case No. 10-2-12111-6). Dkt. 2. On September 17, 2010, BAC removed the action pursuant to this Court's diversity jurisdiction. Dkt. 1.

On September 24, 2010, BAC moved to dismiss Ballard's claims. Dkt. 6. Ballard did not initially respond, and the Court placed him on notice as to what would be required in a response if Ballard wanted to defend against the motion to dismiss. Dkt. 19. Thereafter, Ballard filed his response. Dkt. 20. On January 12, 2011, the Court granted BAC's motion to dismiss. Dkt. 23.

1 On January 20, 2011, BofA and Recon filed a joint motion to dismiss Ballard's
2 claims against them under Fed. R. Civ. P. 12(b)(6). Dkt. 24. Ballard missed the deadline
3 for filing a timely response in opposition. However, Ballard remains on notice as to what
4 is required to defend against such a motion. *See* Dkt. 19 (describing the need for Ballard
5 to file a response supported by, among other things, affidavits or declarations).


6 Additionally, on January 27, 2011, Ballard filed a notice of bankruptcy. However,
7 this notice does not appear to create a hindrance from responding to motions in a timely
8 fashion. Ballard is the Plaintiff, this is still his case, and he must continue to participate or
9 face dismissal.

10 Because Ballard appears *pro se*, the Court extends to him some latitude in
11 litigating this matter. Ballard is reminded herein of his obligations when it comes to
12 responding to a motion to dismiss. *See* Dkt. 19. Ballard may file a response in opposition
13 to BofA and Recon's joint motion to dismiss no later than February 23, 2011. BofA and
14 Recon may reply thereto on or before February 25, 2011. Should Ballard not file a
15 response, the Court will likely dismiss his claims against BofA and Recon.

16 II. ORDER

17 Therefore, it is hereby **ORDERED** that the joint motion to dismiss (Dkt. 24) is
18 **RENOTED** for consideration on February 25, 2011, and the Court **RESERVES**
19 **RULING** on this motion until the deadlines for filing a response and reply have expired
20 as discussed herein.
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22 DATED this 10th day of February, 2011.

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25 BENJAMIN H. SETTLE
26 United States District Judge
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